

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GREGORY A. JAMISON,

Defendant-Appellant.

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UNPUBLISHED

August 25, 2005

No. 254099

Oakland Circuit Court

LC No. 2003-193048-FH

Before: Zahra, P.J., and Cavanagh and Owens, JJ.

MEMORANDUM.

Defendant appeals as of right from his conviction of possession of less than twenty-five grams of heroin, MCL 333.7403(2)(a)(v), entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

A challenge to the sufficiency of the evidence in a bench trial is reviewed de novo on appeal. *People v Sherman-Huffman*, 241 Mich App 264, 265; 615 NW2d 776 (2000). We review the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could have found that each element of the crime was proven beyond a reasonable doubt. *People v Harmon*, 248 Mich App 522, 524; 640 NW2d 314 (2001). Circumstantial evidence and reasonable inferences drawn therefrom are sufficient to prove the elements of a crime. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000). The trial court's factual findings are reviewed for clear error. A finding of fact is considered "clearly erroneous if, after review of the entire record, the appellate court is left with a definite and firm conviction that a mistake has been made." *People v Gistover*, 189 Mich App 44, 46; 472 NW2d 27 (1991).

"Possession is a term that 'signifies dominion or right of control over the drug with knowledge of its presence and character.'" *People v Nunez*, 242 Mich App 610, 615; 619 NW2d 550 (2000), quoting *People v Maliskey*, 77 Mich App 444, 453; 258 NW2d 512 (1977). The defendant need not own or have actual physical possession of the substance to be found guilty of possession; constructive possession is sufficient. *People v Wolfe*, 440 Mich 508, 519-520; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). Constructive possession, which may be sole or joint, is the right to exercise control over the drug coupled with knowledge of its presence. *Id.* at 520. Possession may be proven by circumstantial evidence and any reasonable inferences drawn therefrom. *Nunez, supra*. The defendant's mere presence at a place "where drugs are found is insufficient to prove constructive possession. Instead, some additional

connection between the defendant and the contraband must be shown.” *People v Echavarria*, 233 Mich App 356, 370; 592 NW2d 737 (1999).

Here, the heroin was found in a bag located in a car owned and driven by defendant. The bag was in front of the driver’s seat, where defendant had been sitting. The bag also contained a prescription receipt in defendant’s name. Such evidence, viewed in a light most favorable to the prosecution, was sufficient to prove constructive possession. *People v Catanzarite*, 211 Mich App 573, 578; 536 NW2d 570 (1995); *People v Richardson*, 139 Mich App 622, 625-626; 362 NW2d 853 (1984). While defendant’s sister testified that the heroin belonged to her and that she put it in the grocery bag, the trial court found her testimony to be incredible. “An appellate court will defer to the trial court’s resolution of factual issues, especially where it involves the credibility of witnesses.” *People v Cartwright*, 454 Mich 550, 555; 563 NW2d 208 (1997).

Affirmed.

/s/ Brian K. Zahra  
/s/ Mark J. Cavanagh  
/s/ Donald S. Owens